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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,124	09/18/2003	Chiao-Chung Huang	250122-1020	7157

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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
600 GALLERIA PARKWAY, S.E.
STE 1500
ATLANTA, GA 30339-5994

EXAMINER	
LEE, LAURA MICHELLE	
ART UNIT	**PAPER NUMBER**
3724	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/667,124	HUANG ET AL.	
	Examiner	Art Unit	
	LAURA M. LEE	3724	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *18 January 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-7* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This office action is in response to the amendment filed 1/18/2008 in which claims 1-7 are pending, claim 1 is amended and claims 6 and 7 are new.

Response to Arguments

2. Applicant's arguments with respect to claims 1-4 have been considered but are moot in view of the new ground(s) of rejection.

3. Applicant's arguments filed 1/18/2008 in regards to claims 1 and 5 (35 U.S.C. 103(a) as being unpatentable over Raizk view of Borisov), have been fully considered but they are not persuasive. The applicant contends that neither Raizk or Borisov disclose a base with a centerline. However, it is noted that a centerline can be defined as an imaginary line and does not necessitate any indicia in the workpiece. Noted the Merriam-Webster Online dictionary for centerline as being defined as "a real or imaginary line that is equidistant from the surface or sides of something.[1]" The claimed centerline is therefore referenced as the "imaginary" centerline of the base extending inline with the dropping bar, 21. Secondly, it is noted that in the rejection of 35 U.S.C. 103(a) as being unpatentable over Raizk view of Borisov the examiner has stated that in the modification of Raizk, that the two fingers of Borisov would be provided on the sliding member, such that the interval spacing would be smaller than the spacing of Raizk members 32 and 33.

[1] http://www.merriam-webster.com/dictionary/centerline

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claims 1-4, 6 and 7 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Meredith et al. (U.S. Patent 6,561,068), herein referred to as Meredith in view of Sato et al. (U.S. Patent 5,060,548). Meredith discloses an apparatus for splitting a test piece, comprising: a base (12) with a centerline (i.e. imaginary line extending along the slot in base 12, best seen in Figure 2); two pillars (23s, 23r) disposed on the base separated by a fixed first interval (best seen in Figure 2) to support the test piece at a first side thereof (backside), wherein a connection line between the pillars is perpendicular to and divided equally by the centerline; and a sliding piece (i.e. 16) disposed on the base at a second side(front side) of the test piece, which is opposite the first side (back side) thereof, wherein the sliding

piece is slidable along the centerline (via the blade) and has two fingers (blade guard, 21) parallel to the centerline separated by a second interval, which is smaller than the first interval, and a connection line between the tips of the fingers (Y) is perpendicular to and divided equally by the centerline. Although, it would appear that to function properly the guard would need to have a slit in order to pivot upwardly as shown in Figure 3, to the extent that it can be argued that Meredith does not disclose that the guard, 21, is separated to form two fingers, attention is directed to the Sato circular saw and guard. Sato discloses another guard for a circular saw that is formed in two parts to protect the blade and user from both sides of the blade. As best shown in Sato, Figure 18, the guard is split to form two "fingers" that protect the user from both sides of the blade. As circular saw guards are old and well known in the art and as they perform an equivalent function of user protection, it would have been obvious to one having ordinary skill in the art at the time of the invention to have substituted the Sato blade guard for the Meredith blade guard as either guard works to protect the user.

In regards to claim 2, Meredith discloses wherein the base (12) has two pivot points (the screws, not numbered best shown in Figure 2) at both sides of the centerline to install the pillars (23s, 23r).

In regards to claim 3, Meredith discloses wherein the pivot points (screws) are separated by the first interval, which is divided equally by the centerline.

In regards to claim 4, Meredith discloses wherein the base (12) has a straight groove (see Figure 2) along the centerline, and the sliding piece has a protrusion (blade) movable in the groove along the centerline.

In regards to claim 6, Meredith discloses wherein the base (12) has a straight groove (see Figure 2) along the centerline, the sliding piece has a protrusion (blade,18) movable in the groove along the centerline, and the width of the protrusion (blade, 18) substantially matches the width of the groove in the base, such that the sliding piece (16) is movable in the groove via the blade.

In regards to claim 7, Meredith discloses an apparatus (Figure 1) for splitting a test piece, comprising: a base (12) having a groove (base slot, see Figure 2) formed along a centerline (imaginary line that equally divides the base) of the base (12) ; two pillars (23s, 23r) disposed on the base (12) and separated by a fixed first interval to support the test piece, wherein a connection line between the pillars is perpendicular to and divided equally by the centerline; and a sliding piece (16), disposed on the base (12), having a protrusion (blade, 18) slidable in the groove, wherein the sliding piece (16) has two fingers (blade guard sides) parallel to the centerline and separated by a second interval, which is smaller than the first interval, and a connection line between the tips of the fingers is perpendicular to and divided equally by the centerline.

7. Claims 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Raizk et al (U.S. Patent 3,157,235), herein referred to as Raizk in view of Borisov et al. (SU 197708), herein referred to as Borisov.

In regards to claim 1, Raizk discloses an apparatus for splitting a test piece, comprising: a base (38; Figure 3) with a centerline (an imaginary line disposed along the longitudinal axis of the dropping bar, 21); two pillars (32/33) disposed on the base

(38) separated by a fixed first interval to support the test piece (35) at a first side (backside) thereof , wherein a connection line between the pillars (32/33) is perpendicular to and divided equally by the centerline; and a sliding piece (breaking tip, 23) disposed on the base (via vertical legs 11) at a second side (front side) of the test piece, which is opposite to the first side (backside) therof, wherein the sliding piece is slidable along the center line (by pinion, 31 and corresponding teeth,24);

Raizk discloses one finger, but does disclose that the sliding piece has two fingers parallel to the centerline separated by a second interval, which is smaller than the first interval, and that the connection line between the tips of the fingers is perpendicular to and divided equally by the centerline. However, attention is directed to the Borisov device that discloses stock braking machine with two symmetrical shoulders (2) equidistant from the stops. Borisov discloses that the use of the two shoulders improves the broken stock surface quality by eliminating compressive stress in the break zone. It similarly would have been obvious to one having ordinary skill in the art at the time of the invention to have modified the Raizk device to have utilized two fingers (2) as taught by Borisov on the sliding member (23) instead of just the one to improve the broken test piece surface quality. Additionally, it is noted that although the combination of the Borisov and Raizk device would incorporate the shoulders on the moving member, instead of the non-moving member as taught by Borisov, one having ordinary skill in the art would have recognized that providing the shoulders on the moving or non-moving member (i.e. reversing the four reaction points) would still provide an equal although opposite reaction (i.e. breaking) force on the center of the

beam, that would still enable the device to perform the identical, equivalent splitting function. Additionally, it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 16 and that rearranging parts of an invention involves only routine skill in the art. *In re Japikse*, 86 USPQ 70.

8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Raizk in view of Borisov and in further view Applicant Admitted Prior Art (AAPA).

The modified device of Raizk, discloses the steps of:

providing a test piece (35) having a working surface with a target point (breaking point;

fixing the test piece on the base (38) with the working surface contacting the pillars (32/33);

moving the sliding piece (23), such that the fingers contact the test piece; and pushing the sliding piece to split the test piece along the predetermined line by the fingers of the sliding piece (23) and the pillars (32/33).

Raizk does not disclose forming two slits separated on the working surface and therefore does not discloses that the slits are aligned with the target point in a predetermined line and with the centerline of the base. Although it is old and well known to pre-stress / pre-score an test piece to enable the piece to fail first at the desired location, the applicant also admits, as shown in Figure 1A and 1B of the specification that it is old and well known to first pre-score the workpiece along the

desired split line before applying pressure to break the workpiece. The score lines provide a weakened zone in the workpiece that will fail first, aiding the workpiece to break at the desired location. It would have been obvious to one having ordinary skill in the art at the time of the invention to have provided a score line in the workpiece at the desired break line as already admitted by applicant to be old and well known in the art, to aid in breaking the workpiece along the desired break line.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LAURA M. LEE whose telephone number is (571)272-

8339. The examiner can normally be reached on Monday through Friday, 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on (571) 272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Laura M Lee/
Examiner, Art Unit 3724
04/09/2008
/Boyer D. Ashley/
Supervisory Patent Examiner, Art Unit 3724